

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

CHRISTOPHER PARISH,)	
)	
Plaintiff,)	3:07-cv-00452
)	
v.)	
)	Judge Rudy Lozano
CITY OF ELKHART, COUNTY OF ELKHART,)	
STEVE REZUTKO, STEVE AMBROSE,)	
TOM CUTLER AND JOHN DOES 1-12,)	Magistrate Judge
)	Christopher Nuechterlein
Defendants.)	

MOTION FOR FINAL JUDGMENT UNDER RULE 54(b)

Defendants the City of Elkhart, Steve Rezutko, Steve Ambrose and Tom Cutler, by counsel, move for entry of final judgment under Rule 54(b) of the Federal Rules of Civil Procedure, and in support state as follows:

1. This Motion is made solely for the purpose of obtaining the entry of final judgment as to the Court's September 5, 2008 Order on Defendants' Motion to Dismiss.

2. On September 5, 2008, the Court made an entry on Defendants' Motion to Dismiss and Plaintiffs' Request for oral argument on Defendants' Motion to Dismiss. The Court denied the Plaintiffs' request for oral argument and granted in part and denied in part Defendants' Motion to Dismiss.

3. Specifically, the Court dismissed Plaintiff Christopher Parish's state law claims of false arrest, false imprisonment, infliction of emotional distress, and malicious prosecution, his Fourth Amendment claim for false arrest, and the other Plaintiffs' derivative state law claims of loss of services, loss of consortium, and loss of love and affection. The Court's September 5,

2008 Order states in its Conclusion, “For the reasons set forth above, Defendants’ Motion to Dismiss is **GRANTED IN PART AND DENIED IN PART**. To the extent Defendants seek dismissal of the plaintiff’s Section 1983 claim alleging a due process violation, the motion is **DENIED**. In all other respects, Defendants’ motion to dismiss is **GRANTED**.”

4. Thus, following the Court’s September 5, 2008 Order, the only claim remaining in Plaintiffs’ action is Plaintiff Christopher Parish’s Section 1983 due process claim.

5. This action previously involved multiple issues and parties, as several Plaintiffs presented several claims in their Complaint. The Court’s September 5, 2008 Order did not make the express determination that there is no just reason for delay in the entry of final judgment on the claims dismissed in the order, as contemplated by Rule 54(b) of the Federal Rules of Civil Procedure.

6. There is no just reason for delay with regard to the entry of final judgment on Plaintiff Christopher Parish’s state law claims of false arrest, false imprisonment, infliction of emotional distress, and malicious prosecution, his Fourth Amendment claim for false arrest, and the other Plaintiffs’ claims, as the legal issues involved in such claims are separate and distinct from the remaining Section 1983 due process claim.

WHEREFORE, Defendants the City of Elkhart, Steve Rezutko, Steve Ambrose and Tom Cutler, by counsel, pray that the Court enter a supplemental order with respect to Defendants’ Motion to Dismiss, such supplemental order to include and be supported by a finding that there is no just reason for delay with respect to the entry of final judgment as provided by Rule 54(b) of the Federal Rules of Civil Procedure.

Respectfully submitted,

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Attorneys for Defendants, City of Elkhart,

Steve Rezutko, Steve Ambrose and Tom Cutler

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 7th day of October, 2008, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/CM/ECF system which sent notification of such filing to the following:

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